



Idaho's Citizen Commission for Reapportionment

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Public Meeting
Monday, July 18, 2011
Capitol Building, Capitol Auditorium
10:00 a.m.

Chairman Frasure called the meeting to order and asked for updates and dialogue on the plans on the table. Present were **Commissioner Esposito, Commissioner Finman, Commissioner Frasure, Commissioner Andersen, Commissioner Kane, and Commissioner Moses**. Present from the staff were **Mr. Keith Bybee, Ms. Kristin Ford, Mr. Todd Cutler, and Cyd Gaudet**. Present from the Attorney General's office were **Ms. Mooney and Mr. Gilmore**.

Chairman Frasure asked for any further dialogue or updates on the plans that had been presented, and asked for any discussion on the four plans which they had on the table. **Commissioner Andersen** commented that he had reviewed most of the comments made, and it appeared that they liked C#34 better. **Commissioner Moses** commented that he had reviewed the comments and it was clear that the partisans have spoken. **Commissioner Kane** noted that she believed it would be safe for them to throw out the I'm Just Saying plan [C#22] and move on with three plans. **Chairman Frasure** indicated that without objection they would remove the I'm Just Saying map from consideration, and asked for discussion on the other three maps. **Commissioner Esposito** indicated that he was working on a revised Five Mile plan and asked for a 45 minute recess to put the final touches on it for presentation. **Chairman Frasure** indicated that he and **Commissioner Finman** were also working on some plans, and if no objections the commission would stand in recess until 11:00a.m.

Chairman Frasure called the commission back to order at 11:00. He then said that he appreciated the comparative analysis of the Congressional plans which showed the deviation percentages, the deviation by population numbers, and the county splits. He noted that they had on the table three plans that get down to zero, and they vary from at 26, 36, 61,106, etc. He then asked **Mr. Cutler** to go through the numbers of the three maps which they had under consideration. **Mr. Cutler** noted that those were C#33, C#34, and C#35. **Chairman Frasure** indicated that C#33 splits at Five Mile, C#34 is the Ada/Canyon split (I84 plan), and C#35 also splits at Five Mile. He then indicated that they had two more plans which should arrive momentarily. **Commissioner Esposito** then indicated that he had a map to present which was not quite ready but could be described verbally. **Commissioner Kane** indicated that she also had a plan she would like to present. **Chairman Frasure** then suggested that they take a look at the three plans so they would have them clearly in their minds.

Mr. Cutler then brought up C#34, with a 53 person deviation; the plan splits 2 counties and 13 precincts. **Commissioner Moses** indicated that in this plan District 2 begins at the Owyhee County line and then follows Homedale Road east to I84 and then turns south to the Elmore County Border, and from there on, it is whole counties. **Chairman Frasure** indicated that his concerns were that it splits 2 counties and 13 precincts. **Commissioner Moses** indicated that the value judgment they will make as a commission is whether it is worth splitting counties in order to get the bright, vivid line that everyone can work with.

Mr. Cutler then brought up C#33 with zero deviation, and with one county and one precinct split. **Chairman Frasure** noted the enclave to the south where we have few people out in the desert, and indicated that it is a little hard to describe this area with the country roads, and added that the attempt there was just to get it to 0. He noted the bottom road as Holly Lynn Drive to Pleasant Valley to Kuna Mora which goes on over to the Interstate. He also noted that the northern most edge of this map is the current congressional line. The other roads involved are West State Street and Pierce Park, and then the line jogs up to State Street to Glenwood Street, and then jogs back to the river and to Branstetter. He stated that then you are back to Highway 36, which is Chinden, and then back to Five Mile.

Mr. Cutler then brought up C#35, with one county split, no precinct splits, and a deviation of 0, with 56 people. **Chairman Frasure** called for any discussion on these plans, and indicated that 1 is at 0, and 1 is at 56. He stated that they had a decision to make whether it is wiser to split one county or two, and questioned if it is wise to split two counties when they clearly have an option to split only one. He then talked about splitting 13 precincts in comparison to 0 or 1, and indicated that he felt that the number of precinct splits should be a consideration. He also pointed out that the Attorney General's office had kind of punted on this, and said that they can defend either position, and that this was a political decision for the commission to make. **Mr. Gilmore** then indicated that this was their position. **Chairman Frasure** stated that in his opinion they would be more defensible at 1 county than 2, and at 1 precinct than 13. **Commissioner Moses** then indicated that C#33 relies on 12 streets to make its boundaries and that some are less known roads. He suggested that a person would have to be really knowledgeable, of the line, to tell people what district they are in, which may reduce voting. He said that he would rather not split counties but feels it is worth considering the ease of administration, the effect on participation, and the ability to produce fair elections in having just 2 well known roads as the boundary for a Congressional district. He stated that he didn't know of a lot of people who would sue for under 100 people, and didn't feel that they have any issues in Idaho that anyone would send out stalking horses on. He also indicated that someone told him that if they are down to 50 people, those people probably already have moved since the census.

Chairman Frasure then indicated that eight out of ten states, which have completed their redistricting, have chosen 1 person or 0, and stated that he feels that splitting two counties makes them ripe for a lawsuit, and he completely guaranteed that plan C#34 would have to be defended in court based on the deviation and the splitting of two counties. **Commissioner Moses** then asked who would file the suit. **Chairman Frasure** indicated that where they have divided counties unnecessarily, that county would sue. He also said that once you start analyzing the political breakdown of what they have accomplished with this plan, it is a brilliant political move and creates a great opportunity. He stated he is sure that they have done the political breakdown on this one, and that this map clearly carves a nice district for a Democratic candidate in CD1. He indicated if they had not done a political analysis of this, he could share it with them. **Commissioner Moses** indicated that he had not done a political analysis of this plan, and it was all about providing a bright line. He suggested that if the fear is that they are splitting a county unnecessarily then they should go back and look at C#22, as it has been shown that they don't have to split Ada County. **Chairman Frasure** said then they would be getting up to a 278 deviation instead of 0, and in looking at the states that have completed this process, 80% are getting down to 0. He pointed out Illinois that has 19 Congressional districts and their deviation is 1, so just the fact that this plan is so far away from 0, and splitting counties, it would cause them serious problems. He added that on top of that the political advantage that this gives a particular party in CD1, and that although they can't consider this, if asked if they were inviting a lawsuit, his answer would be yes they are. **Commissioner Moses** indicated that if Commissioner Frasure knew how to draw a majority Democratic district in this state, then he would like to see it because he doesn't know how, and that was not the intent as this map was dictated by the lines and the population. He then said he wanted to address the question of how much deviation there is, and how much is enough, as here they are talking .1 to .2 of a percent with no other underlying factor. He stated that there is always a risk, however he doesn't know if a difference of 10 people one way or another, all by itself is enough of a threat to get someone to spend thousands of dollars on a lawsuit. He also pointed out that they are not trying to hurt anyone with these maps and that there was no hidden agenda that he is aware of, so when you assess the likelihood of a lawsuit, you would come up with a pretty small number.

Chairman Frasure then indicated that it was hard for the chair to believe that they have had absolutely no political input, as to what this does politically. He said he would take his word for that but pointed out that this is a partisan event and you would be expected to know what these plans do. He stated that he was not going to go into great detail but if even a rudimentary beginner in politics would understand that moving that line and splitting Canyon County moves the dynamics of this district dramatically in one direction, and has tremendous political implications. On top of that he noted that they were off on three factors, splitting two counties, splitting 13 precincts, and they are off on the deviation. He pointed out that the other states are littered with suits where they are picking plans that are at 0 or at more than 1 off. He indicated that as the one person=one vote principle may not be defined yet, that their legal counsel has waffled on that so they are not getting a definition on that, which may be safe for them, but the reality is that if you don't get down to 0 you are going to have a problem especially if it has political consequences. **Commissioner Esposito** then indicated that in having run four successful CD1 campaigns he thought that **Chairman Frasure** was on solid ground. He then said that he wanted to come back to where they started as a commission, and that was to find common ground, a 6-0 vote, and something that would stand a court challenge, because they know that if they are standing together and they have a solid plan based on the science, then their work will stand the test. He stated that he wished that he had his plan ready because he thought it would answer, and rise to the challenge, which Commissioner Moses put before them in terms of bright lines. He then suggested that if they didn't have other plans to review, that they recess to look at other options which they could put on the table where they may be able to find some common ground.

Commissioner Kane then said that for all the plans she had broken out the Hispanic vote, and what the split would do to the Hispanic vote. She noted that in C#34, CD2 would have a 14.5% Hispanic vote, and CD1 would have a 7.9% Hispanic vote, in C#33 the Hispanic vote is more evenly split with 9.97% in CD1 and, 12.47% in CD2, and then in C#25 it is very similar to that. She stated that she felt this is something that the commission should have in the backs of their minds as they go through this. **Chairman Frasure** then asked Mr.

Gilmore if there was any case record where the percentage of minority is so small at 14% or 12% that moving it by 2%, when it is in the teens, would have any weight. **Mr. Gilmore** said that he had not researched that, however from his memory he doesn't recall any being that low. He said that most of this type of litigation comes out of the south where there is a possibility of creating majority-minority districts, and that he could not recall any cases where the number was in the 10-20% range. **Commissioner Moses** then asked Mr. Gilmore if he was familiar with the numbers used to define a minority influence district. **Mr. Gilmore** stated he didn't remember that. **Commissioner Kane** then stated that this was just something she wanted the commission to consider as they move forward in considering plans. **Chairman Frasure** then indicated that they could have dozens or hundreds of communities of interest, and that minority representation was probably the largest they would want to consider, and he asked **Mr. Gilmore** to see if he could find any cases regarding a minority percentage in the teens. **Mr. Gilmore** indicated that he would see what he could find over lunch hour. **Commissioner Moses** then indicated that he can see where people are concerned with the political ramifications, and that he also will be, when they are done, but for now, if they can come up with a map that has 2 bright lines, like the ones they have drawn, then he doesn't care where they are as long as they get something that's understandable to people who don't spend all their time on politics. **Chairman Frasure** then indicated if they would pull up the Illinois map they would be amused how many districts were carved from downtown Chicago, just to reach out to get enough country bumpkins, that Chicago still dominates. He stated that they were actually able to take out four republican congressmen, and he is sure that they were looking for those bright lines in that process. He then pointed to the current Idaho Congressional map, and indicated that this has been a historical split since 1971, and the line has simply been moved each time. He indicated that if you ask people where Five Mile is, people will know. With that, he recessed for lunch until 2:00 p.m.

Chairman Frasure called the meeting back to order at 2:03 pm, and asked for any further discussion on the current three plans which were out there, or if anyone had any new plans. **Commissioner Finman** then proposed a new plan for consideration which she called Boise North. She noted that this was based on the original C#33 and C#35 on Five Mile; however it moves precincts from the south to the north. She indicated that this would be C#36. **Commissioner Finman** indicated that there is a deviation of 1 person, and Ada is the only county split. She noted that there are a couple of precincts on the south that are split, which are in the desert area, without a lot of population. The plan goes down Five Mile Road and then switches to Amity following the precinct lines to Gowen Road, and the rest of the way it follows Pleasant Valley. On the north, for the most part, it follows Boise County lines as, and it moves Boise County and Garden City to D2. In summary then she stated that this is taking from the south and moving things more to D2 in the north. **Commissioner Moses** then asked which road is the southernmost north /south road. It was indicated that it is Pleasant Valley. **Commissioner Moses** then asked if that goes down to the county line or another road. It was indicated that it goes down to Kuna Mora Road. **Commissioner Moses** then asked what the line was that ran south from that and was advised that this is a precinct block line. **Commissioner Moses** then asked if the line jogs on Cole Road, and was advised that it did jog onto Cole Road and then back to the precinct line. **Commissioner Finman** indicated that she thought the map could be worked down to 0. **Chairman Frasure** asked if the northern end is Garden City, and **Commissioner Finman** indicated that it was, and that Garden City and Boise County were moved in to D2 on this map. **Chairman Frasure** asked for any further discussion on C#36, or if there were any other maps for discussion. He then indicated that the commission would be at ease until the next map was set up.

Mr. Cutler then indicated that this would be C#37. **Commissioner Kane** said as it had only a one person deviation they would call it one person=one vote. She noted they had improved on this map over the lunch hour while their technical people worked on it. **Chairman Frasure** noted that at least they were getting down to similar guidelines. **Commissioner Kane** indicated that this map keeps counties whole except for one jog that pulls over 5 precincts to try to get the one person deviation, and that the cities are not split. **Chairman Frasure** asked if Meridian was split. **Commissioner Kane** answered that other than those five precincts that were pulled over, no cities were split. **Commissioner Moses** indicated that he believes this pulls over some counties as well starting with Owyhee and two others. **Chairman Frasure** indicated that this moves Canyon and Owyhee from CD1 to CD2, and also moves Custer and Lemhi Counties. **Commissioner Esposito** asked what the purpose of this map was. **Commissioner Kane** indicated that they were working toward reducing deviation and to address the split. **Commissioner Esposito** indicated that he sees issues with Lemhi and Custer being basically cut off. He also stated that he sees problems with what he would call communities of interest with western Ada and Canyon Counties and Owyhee County in terms of the Congressional representation. Also he saw as problematical, once again, that there was either no road access, or minor secondary road access, connecting the district. He indicated that he sees this as a map that would open up the commission to some problems and some challenges. **Commissioner Kane** indicated that she was just bringing this forward as an option and an alternative to bring them closer together and reduce the challengeable factors. **Commissioner Moses** stated that one of the driving factors in this map is that there seems to be a strong sentiment to divide Ada County, and so what this map does is to honor that sentiment, with the least disruption to Ada County. He explained that it does move counties, and that the people who live in remote areas already live with what they have in terms of roads and access, and the only problem he sees is if someone wants to divide Ada County more than this map does. **Chairman Frasure** then pointed to all of the public testimony which was to keep counties whole, and then all of the testimony in Meridian about Five Mile Road. He indicated that they know they have to move 50,000 people from CD1 to CD2. However, this plan is now moving well over 200,000 people from CD1, and over 100,000 people from CD2, so it is disturbing over 300,000 people and shuffling counties around. He also noted that this plan disenfranchises the people in Challis and Lemhi, all in an attempt to supposedly show compromise in Ada County. He said that candidly he was surprised that they had arrived at this. He noted that in looking at historical splits, which the courts talk about, that since 1971 Ada County has been split, and that by simply moving the line over it would disturb the least

number of people. He suggested that this plan just juggles everything up and changes the character of both districts. He said that he thought that the idea was to be finished by July 27th and now he didn't feel they would be done with the Congressional districts by July 27th. He stated that when you are moving one third of the state around, for whatever purposes, they have gotten very far away from what they are trying to accomplish and he is not so sure that this is a solid plan. **Commissioner Moses** indicated that he would take issue with the characterization that they were totally disenfranchising anyone. He said that everyone in the state was still going to have the same right to vote, and everyone in the state was still going to have the same ability to exercise that right to vote. He noted that they have let pass a number of people testifying that they did not have a voice, but from this commission the suggestion that any proposal is depriving anybody of the right to representation is simply wrong. **Chairman Frasure** indicated that the point is moving hundreds of thousands of people from one district to another, and that this is a major departure from what we currently have. He pointed out that this accomplishes the political goal of splitting Canyon County from Ada County, which he would agree was a worthy goal if he was from the other political camp. He said that this does not get them closer to something that they can live with. **Commissioner Moses** stated that he just wanted to object to the characterization and make sure that it didn't go unchallenged that any plan presented here disenfranchises anyone because that is not an accurate statement. **Chairman Frasure** indicated that the point he was trying to make was that it was not disenfranchisement, but huge changes as they are talking about over 300,000 people, who have a congressman that they have been dealing with, and that those Congressional districts have been historically the same for over four decades. **Commissioner Kane** stated that she was just putting this plan out there for consideration, and that they had to change course a bit after hearing about the legal requirements last week. **Chairman Frasure** indicated that all plans are certainly worthy of discussion.

Commissioner Esposito indicated that he had a map which he had submitted to their staff, and he was looking to see if it was ready. **Chairman Frasure** indicated that they would be at ease for a moment. He indicated that this map will be C#38 with Cloverdale as the unofficial title. **Commissioner Esposito** indicated that everything south of I-84 is in CD1, and that the district boundary follows Cloverdale north up to Chinden Boulevard, which goes east and takes in all of Garden City. Then along State Street it goes back east towards Gary Lane, which goes north to Hill Road and then out to Old Highway 55 and Highway 55. He indicated that he felt these were pretty bright lines, and that the little jog you see is Garden City. He talked about the Gary Lane neighborhoods, which are west of Gary Lane, between Hill Road and State Street that is considered a community of interest, and that people are very familiar with Gary Lane. Additionally he said that everyone is very familiar with Hill Road and Highway 55, and that the people who live in Garden City know whether they live in Garden City or not. He also noted that Chinden, Highway 20, Cloverdale Road, and I84 are very distinguishable markers. He said that this gets 0 deviation, and he believes that it meets all of the criteria which they have been talking about with a one county split in the traditional manner, one person=one vote, as well as having easy-to-follow bright lines. In answer to a question, he indicated that this plan leaves the other counties in their current Congressional District. **Commissioner Moses** then asked for time to caucus. **Chairman Frasure** then recessed until 2:45.

Chairman Frasure called the commission back to order after recess. **Commissioner Moses** then congratulated **Commissioner Esposito** on his effort to square the circle. He didn't know if you could come this close and meet the bright lines that he was looking for, but **Commissioner Esposito** had clearly struggled with that and came out on top. He said that, subject to some more study, this appears to be a map that he could live with. **Commissioner Finman** then asked if **Chairman Frasure** had a couple more plans to present, and for thoroughness suggested that the commission look at those. **Chairman Frasure** indicated that he had a couple of maps. **Commissioner Andersen** suggested that with C#38 if they added any more maps they may be moving off base from where they want to be. **Chairman Frasure** indicated that he could support C#38, and suggested that they hold the other maps. **Commissioner Kane** then indicated that she really liked C#38, and that **Commissioner Esposito** made a really good effort to move to brighter lines of demarcation while keeping the 0% deviation. She thought that this was something that she could support as well when the time comes for a vote, and that she appreciated the work that **Commissioner Esposito** put into this. **Chairman Frasure** asked if the commission would like to take a break to contemplate this a little further as it looked like they seemed to be heading towards an agreement. **Commissioner Moses** then indicated that he would like to propose, with this on table, and the generally favorable tone, as they were not ready to move forward with a final action, that they start working on legislative plans. **Chairman Frasure** indicated that he felt that would be a non-starter as they had two separate tasks before them. He indicated that the idea to leave this on the table may be to use it as a bargaining chip or something. He advised that they needed to settle this issue, as they have in the past by settling one issue and then moving on to the next one. He indicated they could take as much time as they would like to decide when they were ready to take a vote on this plan. He stated that to put this on the shelf for 30 days doesn't make any sense, and if they wanted a couple of hours or overnight they could accommodate that. He noted that there were other options ready to go if they wanted to see other options. He then asked if there were any further plans submitted by the public overnight and was advised there were not. As there were no other comments or motions, **Chairman Frasure** indicated that they would take a break until 3:45. **Commissioner Kane** then presented to the commission with a note which she and **Ms. Ford** had put together to thank the public for their input, which would be put on the website. **Commissioner Finman** stated that by delaying a vote on the congressional districts, it makes it hard for them to reach their goal in September. She noted that it was now fresh in their minds, with the legal implications, and she felt getting a vote sooner was better than later. **Chairman Frasure** then recessed until 3:45 p.m.

Chairman Frasure called the commission back to order from recess. **Commissioner Andersen** moved that in the interest of time, the commission begin its review of the publicly-submitted legislative plans. **Chairman Frasure** remarked that they are two different tasks,

that looking at the legislative maps would confuse the issue, and that the natural sequence of things is to wrap up the congressional districts first, however long it takes. He indicated that if they can't reach an agreement on one line, he didn't see how they would reach an agreement on 35 lines. **Commissioner Finman** then made a motion for the commission to look at the additional plans which **Chairman Frasure** had put together.

Chairman Frasure then presented plan C#39 which he indicated was a whole cities plan. He stated that this comes within a 1 person deviation. He indicated that this plan comes off of Five Mile below the Interstate, with one county and one precinct split. He explained that this moves the line clear across the southern boundary of Ada County all the way to the Canyon County line. In doing this the western boundary is the Ada/Canyon County line which takes in a whole precinct. The plan then comes off the county line up to Robertson Road, to Kuna Cave Road, to Swan Falls Road north, to East King, and then over to Struggle Road, following precincts. Then the line goes straight up North Kuna to Columbia and then across, to one precinct where they reached in to get that one person at Cloverdale. The line then goes to Hubbard Road, to Five Mile, to Lake Hazel, to Cole, and then to the Interstate, and around to Five Mile. He indicated that it takes in the city limits of Garden City, down State Street, and on up the existing congressional line. He explained that by taking the land mass of Ada County, which is mostly desert where no one lives, it does look more pronounced, as far as the line between Elmore and Ada County. He also indicated that this map includes Boise County.

Chairman Frasure then presented the Owyhee plan, which is C#40. He indicated that the deviation again is 1 and that they could find that 1 person if they become serious about this plan. He stated that this particular plan required three nips on precincts, and that Boise County does not come into play on this plan as it moves Boise County back into CD1. He stated that this plan pushes one more precinct over against the Canyon County line, and that there is a small corner where they had to adjust the precinct lines. He indicated that you have the county line on one side, then Bowmont Road, to McDermott Road, then on up to W. Deer Flat, and east to Kuna Road. Then the line goes north up to Collopy Road, east to S Cloverdale, and north to Lake Hazel. From there it goes east to S. Cole, and north to I-84. **Chairman Frasure** indicated that there was also a slight tweak, where one precinct goes below Hwy 26. That is one of the divisions, and they moved those people, for ease of the voters, below Hwy 26 to CD2.

The commission then went at ease for a moment to allow for some technical issues. The commission then reviewed C#41. **Chairman Frasure** indicated that he did not have time to perfect this one and it would take another hour or so to finish. He stated that this one does keep precincts whole, and is very similar to others; however it has the widest deviation that they would see today. He explained that it follows the Interstate all the way along the current CD line towards Boise. He indicated that this plan uses the Interstate, Five Mile, Hwy 26, and Hwy 44, and requires some further work to get down to the right number.

Next was C#42, called the Eagle Road map, with a deviation of 4, which with adjustments could be down to 0. **Chairman Frasure** indicated that this is a one county split, and that the numbers speak for themselves. He then noted that this should suffice for one day's digestion, and asked for any comments or motions on these plans. The commission then went at ease for a moment.

When the commission came back to order, **Commissioner Finman** indicated that she would like to make a general statement. She said that they have ten very good options on the table in C#33 to C#42, and that all, for the most part, are legally defensible. She stated that a lot of these options meet the one person=one vote principle, have the minimum county splits, and some have historical preferences, which is noted in the Georgia case, and quite a few that involve minimum disruption in the state. She said that at this point in time, with all of the information in front of them, she sees no valid reason to delay the vote, and that they have good reasons to wrap this up quickly.

Chairman Frasure indicated that he appreciates the tough task that the commission has in front of them, and that he would go ahead and prepare some more options for tomorrow, and that once they get in the mood that they will want to start pulling it down as to which ones they want to consider. He said it looked like there was some strong sentiment for C#38, which he could support as the chair, so if that's the direction they are going, he would entertain that motion at any time. **Commissioner Moses** indicated that it is clear that they have gone about as far as they can go on the congressional plans today, and suggested that, in the interest of time, they begin work on legislative plans until they are ready to make a move on the congressional plan. **Chairman Frasure** stated that they are two separate issues, and separate agenda items, and that they were talking about the congressional plans today. He said that he sees no valid reason to delay this. He indicated that it does not help to confuse the mind, as this has been a small warm up to what they have to do, and that the tsunami will hit them once they start laying out legislative plans as you are then talking 35 districts with lots of public input. He indicated that will be an entirely different fight, and if they can't settle on a congressional border before they enter that battle, the congressional battle gets lost in the fodder. He stated that they are at a decision point in this process and he will resist moving off of this until they settle the congressional line. He said that to think that this issue will go away by ignoring it will not aide in the process.

Chairman Frasure then went over the thank you note that had been prepared for the website which states: The Commissioners and staff of the Reapportionment Commission would like to extend our sincere appreciation to those citizens that have taken the time and effort to draw new congressional and legislative district maps, and submit them to us. We look at every plan that is submitted and would like to thank each and every one of you for sharing your ideas and comments! **Chairman Frasure** indicated that without objection he will have that posted.

With that, **Chairman Frasure** adjourned the commission until 10:00 a.m. the following day.